

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHRISTINE WEST, as Special)	Case No.:
Administrator of the Estate of)	
PAUL WEST, Deceased,)	
)	
Plaintiff,)	
)	COMPLAINT
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Plaintiff states:

1. That Plaintiff, Christine West, is a resident of Winnebago, Thurston County, Nebraska.

2. Jurisdiction in this matter is based upon 28 U.S.C. §1346(b) and 28 U.S.C. §§2671 – 2678, commonly referred to as the Federal Tort Claims Act.

3. Venue is appropriate in the District of Nebraska because a substantial part of the events complained of occurred in this District and because the Defendant resides in this District.

4. Plaintiff presented her claim on March 2, 2016, to the Defendant by mailing Standard Form 95 Claim for Damage, Injury or Death by Fed Ex overnight mail to the Bureau of Indian Affairs, MS-4606-MIB, 1849 C Street N.W., Washington, D.C. 20240. Said claim was received by the Defendant on March 3, 2016. A copy of the claim and acknowledgement and receipt thereof are attached hereto as Exhibit A and incorporated herein by reference.

5. Plaintiff also presented her claim on March 2, 2016, to the Defendant by mailing Standard Form 95 Claim for Damage, Injury or Death by Fed Ex overnight mail to the Bureau of Indian Affairs, Rt. 1 Box 18 Hwy 75 S., Winnebago, NE 68071. Said claim was received by

Defendant on March 3, 2016. A copy of the claim and acknowledgement and receipt thereof are attached hereto as Exhibit B and incorporated herein by reference.

6. After a request was made by Defendant to Plaintiff's counsel, Plaintiff also presented her claim on March 8, 2016, to the Defendant by mailing Standard Form 95 Claim for Damage, Injury or Death by U.S. Certified Mail to PHS Winnebago Indian Hospital, 225 S. Bluff Street, Winnebago, NE 68071. Said claim was received by Defendant on March 10, 2016. A copy of the claim and acknowledgement and receipt thereof are attached hereto as Exhibit C and incorporated herein by reference.

7. The United States of America has neither allowed nor denied this claim within six (6) months of receipt of the claim, and Plaintiff is authorized to file this action.

8. On or about April 14, 2014, Paul West, then 35 years of age, presented to the Winnebago Indian Health Services Hospital's emergency room in Winnebago, Nebraska.

9. Paul West presented with shortness of breath at rest and with exertion and massive peripheral edema caused by excess fluid trapped in his body's tissues.

10. From April 14, 2014 to April 17, 2014, Paul West exhibited severe respiratory problems, including inability to breathe without leaning forward, hyperventilating while resting, and falling asleep while talking.

11. On April 17, 2014, Paul West was found on the floor of the hospital room. His blood pressure dropped to 79/30 and was unresponsive and stopped breathing.

12. A code blue was announced from the nursing station and the code team arrived thereafter.

13. The nursing staff could not locate the necessary emergency airway resuscitation equipment and Paul West was not intubated until 20 minutes after the initiation of resuscitation efforts.

14. Resuscitation efforts were unsuccessful and Paul West was subsequently declared dead.

15. That the agents/and or representatives of the Defendant United States of America who were attending to the care and treatment of the deceased Paul West were negligent in each of the following respects:

- a. In failing to properly train it's nursing staff of the proper procedures in calling a Code Blue;
- b. In failing to properly train its' nursing staff on the proper use and operation of the cardiac monitor/defibrillator.
- c. In failing to place a backboard under Paul West's body to facilitate effective heart compressions;
- d. In failing to maintain the necessary emergency resuscitative airway equipment on the crash cart for use when Paul West went into respiratory arrest;
- e. In failing to properly and timely assess Paul West's lung sounds;
- d. In constantly failing to follow physician's orders including measuring Paul West's intake and output every shift;
- f. In failing to obtain a repeat EKG after the first EKG showed an undetermined cardiac rhythm due to Paul West's restlessness;

- g. In failing to monitor and assess his medical condition on an ongoing basis in accordance with the standards of nursing practices; and
- h. In failing to report Paul West's deteriorating medical condition to the attending physician.

FIRST CAUSE OF ACTION:
NEGLIGENCE/SURVIVAL ACTION

16. Plaintiff hereby incorporates Paragraphs 1 through 15 of her Complaint as if fully set forth again.

17. That as a direct and proximate result of the negligence of the agents and/or representatives of Defendant United States of America, Paul West sustained severe and excruciating physical injuries causing physical pain, mental suffering, and imminent apprehension of death from the time he was admitted to Winnebago Indian Health Services Hospital up until the time of his death.

WHEREFORE, Plaintiff prays for judgment on her first cause of action against the Defendant for such damages that the Court determines to be fair and reasonable, together with the prejudgment interests, costs, and for such other relief as the Court deems just and proper.

SECOND CAUSE OF ACTION:
WRONGFUL DEATH

18. Plaintiff hereby incorporates Paragraphs 1 through 17 of her Complaint as if fully set forth again.

19. That as a direct and proximate result of the above-described negligence, Paul West sustained serious injuries, which resulted in his death.

20. That at the time of his death, Paul West was thirty-five (35) years of age.

21. That Paul West's death has caused his next of kin, namely his mother, to sustain past and future monetary losses, comfort, compassion, services, earnings, contributions, counseling, advice, love, and affection of Paul West and such other pleasures, rights and pecuniary value which attend immediate familial relationships.

WHEREFORE Plaintiff prays for judgment on her Second Cause of Action against the Defendant for such damages that the Court determines to be fair and reasonable, together with prejudgment interests, costs, and for such other relief as the Court deems just and proper.

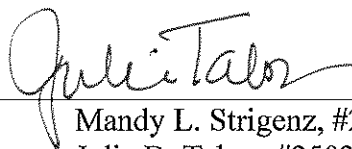
WHEREFORE the Plaintiff prays for judgment against Defendant United States of America as follows:

- a. For special damages and general damages in the amount of \$2,250,000.00, and the costs of this action and
- b. For other damages that are deemed reasonable and proper.

DATED this 17th day of February, 2017.

CHRISTINE WEST, Individually and as
Special Administrator of the Estate of PAUL
WEST, Deceased

By:



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